

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 243

HOUSE BILL 2040

AN ACT

AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; RELATING TO RESIDENTIAL MORTGAGE FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 23, Arizona Revised Statutes, is amended
3 by adding section 13-2320, to read:

4 13-2320. Residential mortgage fraud: classification:
5 definitions

6 A. A PERSON COMMITS RESIDENTIAL MORTGAGE FRAUD IF, WITH THE INTENT TO
7 DEFRAUD, THE PERSON DOES ANY OF THE FOLLOWING:

8 1. KNOWINGLY MAKES ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION OR
9 MATERIAL OMISSION DURING THE MORTGAGE LENDING PROCESS THAT IS RELIED ON BY A
10 MORTGAGE LENDER, BORROWER OR OTHER PARTY TO THE MORTGAGE LENDING PROCESS.

11 2. KNOWINGLY USES OR FACILITATES THE USE OF ANY DELIBERATE
12 MISSTATEMENT, MISREPRESENTATION OR MATERIAL OMISSION DURING THE MORTGAGE
13 LENDING PROCESS THAT IS RELIED ON BY A MORTGAGE LENDER, BORROWER OR OTHER
14 PARTY TO THE MORTGAGE LENDING PROCESS.

15 3. RECEIVES ANY PROCEEDS OR OTHER MONIES IN CONNECTION WITH A
16 RESIDENTIAL MORTGAGE LOAN THAT THE PERSON KNOWS RESULTED FROM A VIOLATION OF
17 PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

18 4. FILES OR CAUSES TO BE FILED WITH THE OFFICE OF THE COUNTY RECORDER
19 OF ANY COUNTY OF THIS STATE ANY RESIDENTIAL MORTGAGE LOAN DOCUMENT THAT THE
20 PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION OR
21 MATERIAL OMISSION.

22 B. AN OFFENSE INVOLVING RESIDENTIAL MORTGAGE FRAUD SHALL NOT BE BASED
23 SOLELY ON INFORMATION THAT IS LAWFULLY DISCLOSED UNDER FEDERAL DISCLOSURE
24 LAWS, REGULATIONS AND INTERPRETATIONS RELATED TO THE MORTGAGE LENDING
25 PROCESS.

26 C. THIS SECTION DOES NOT APPLY TO A PERSON WHO IS NOT AWARE THAT THE
27 INFORMATION THAT IS RELIED ON BY THE MORTGAGE LENDER, BORROWER OR OTHER PARTY
28 TO THE MORTGAGE LENDING PROCESS IS A DELIBERATE MISSTATEMENT,
29 MISREPRESENTATION OR MATERIAL OMISSION.

30 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 4 FELONY,
31 EXCEPT THAT A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF RESIDENTIAL
32 MORTGAGE FRAUD OR WHO CONSPIRES TO ENGAGE OR PARTICIPATE IN A PATTERN OF
33 RESIDENTIAL MORTGAGE FRAUD IS GUILTY OF A CLASS 2 FELONY.

34 E. FOR THE PURPOSES OF THIS SECTION:

35 1. "MORTGAGE LENDING PROCESS" MEANS THE PROCESS THROUGH WHICH A PERSON
36 SEEKS OR OBTAINS A RESIDENTIAL MORTGAGE LOAN INCLUDING SOLICITATION,
37 APPLICATION, ORIGINATION, NEGOTIATION OF TERMS, THIRD-PARTY PROVIDER
38 SERVICES, UNDERWRITING, SIGNING, CLOSING AND FUNDING OF THE LOAN.

39 2. "PATTERN OF RESIDENTIAL MORTGAGE FRAUD" MEANS ONE OR MORE
40 VIOLATIONS OF SUBSECTION A THAT INVOLVE TWO OR MORE RESIDENTIAL PROPERTIES
41 AND THAT HAVE THE SAME OR SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS OR
42 METHODS OF COMMISSION OR ARE OTHERWISE INTERRELATED BY DISTINGUISHING
43 CHARACTERISTICS.

1 3. "RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN OR AGREEMENT TO EXTEND
2 CREDIT TO A PERSON THAT IS SECURED BY A DEED TO SECURE DEBT, SECURITY DEED,
3 MORTGAGE, SECURITY INTEREST, DEED OF TRUST OR OTHER DOCUMENT REPRESENTING A
4 SECURITY INTEREST OR LIEN ON ANY INTEREST IN ONE TO FOUR FAMILY RESIDENTIAL
5 PROPERTY AND INCLUDES THE RENEWAL OR REFINANCING OF ANY LOAN.

APPROVED BY THE GOVERNOR JUNE 13, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 14, 2007.